IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ Petition No. 3699 (S/S) of 2001
Old No. 12383 of 1991

Ghanshayam Prasad S/o Shri Barmanand,
Roller Driver, Construction Division, Public Works Department,
Ukhimath, District- Chamoli ------ Petitioner

Versus

The Executive Engineer, Construction Division, Pubic Works Department, Ukhimath, District – Chamoli ------ Respondent

Hon'ble M.M. Ghildiyal, J.

Heard Sri S.S. Chaudhary, learned counsel for the petitioner and Sri H.M. Raturi, learned Standing Counsel of Uttarakhand for the respondent.

By means of this writ petition, the petitioner has prayed for the following reliefs:

1. Issue a writ, order or direction in the nature of certiorari quashed the impugned order dated 30th March, 1991 passed by the respondent (Annexure 1 to the writ petition).
2. Issue any other suitable writ, order or direction as this Hon'ble Court may deem fit and proper under the facts and circumstances of the case.
3. Award cost to the petitioner.

The petitioner has challenged the termination order dated 30.03.1991 passed by the respondent, Executive Engineer, Construction Division, Ukhimath, District Chamoli.

The termination order was passed by the respondent on the ground that the petitioner was found guilty in a preliminary inquiry in an accident, which had taken place on 29.06.1990.

Learned counsel for the petitioner has submitted that the petitioner was a driver of road roller and at the time of accident, it was being driven by the conductor. It was proved in the preliminary inquiry conducted against the petitioner that because of carelessness of the petitioner, the accident took place and a loss was occurred to the Government property and also of the death of conductor.

Aggrieved with the order dated 30.03.1991, the petitioner preferred this writ petition on the ground that no full-fledged inquiry was initiated against the petitioner prior to passing of the aforesaid order. The Hon'ble Allahabad High Court on 26.04.1991 stayed the operation of order dated 30.03.1991 and in pursuance of that order, the petitioner is still continuing on the post of the driver.

Learned counsel for the petitioner is not in a position to inform the Court whether any departmental proceeding has been initiated against the petitioner for the alleged carelessness of the petitioner or not. The sole ground of challenging the order of termination was that without initiating any proceeding or without giving any opportunity of hearing to the petitioner, the order of termination has been passed by the respondent.

In case, the departmental proceeding has not been initiated against the petitioner, the order dated 26.04.1991 is made absolute. However, it is open to the respondent to initiate any proceeding against the petitioner for the alleged carelessness and

pass suitable order thereafter, after giving opportunity of hearing to the petitioner.

With this direction, the writ petition is finally disposed of. All the pending applications stand disposed of.

(M.M. Ghildiyal, J.)

22.05.2007
VKS